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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/826,166	04/04/2001	Yoshihisa Gonno	7217/64310	4029

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EXAMINER

PEREZ DAPLE, AARON C

ART UNIT	PAPER NUMBER
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2154

DATE MAILED: 07/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/826,166

Applicant(s)

GONNO ET AL.

Examiner

Aaron C. Perez-Daple

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 and 10-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-8 and 10-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. This Action is in response to Amendment filed 4/15/05, which has been fully considered.
2. Amended claims 1-8 and 10-13 are presented for examination.
3. Claim 9 is cancelled by Applicant.
4. This Action is Final.

### *Specification*

5. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the specification does not appear to provide proper antecedent basis for the limitation "transmitting the initial value of the reserved delivery resource." If support can be found in the disclosure as originally filed, the specification should be amended to include reference to this subject matter. No new matter should be entered. Otherwise, the subject matter should be cancelled from the claims.

### *Claim Rejections - 35 USC § 112*

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. **Claims 1, 3-8 and 10-12** are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in

the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Specifically, the last two lines of claims 1 and 12 recite “transmitting the initial value of the reserved delivery resource.” This subject matter does not appear to be enabled by the original disclosure. Although the first full paragraph of pg. 18 of the specification discloses transmitting “reservation information,” the Examiner could find no reference to transmitting an “initial value,” which initial value would include a minimum bandwidth and transmission time. Applicant is respectfully requested to either point out where the subject matter is supported in the original disclosure, or cancel the subject matter from the claim(s).

8. As dependent claims, claims 3-8 and 10-11 suffer from the same deficiencies as claim 1.

9. **Claims 1-8 and 10-13** are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Specifically, claims 1, 2, 12 and 13 recite in part “automatically calculating a minimum bandwidth...for delivering the content.” The only apparent support for this limitation in the claims comes in the first full paragraph of page 16 of the specification. However, this passage does not explain *how* the minimum bandwidth is calculated (e.g. based on a quality of service parameter? based on a designated transport method? based on the type of content?), and such would not be apparent to one of ordinary skill in the art. Merely reciting “calculating a minimum bandwidth” in the specification is not sufficient to enable one of ordinary skill in the art to make and/or use the invention. Notably, this limitation is also in

contradiction with the summary of the invention, which states in the first paragraph that the bandwidth is *designated* by the content provider and *not* calculated. Indeed, this is the purported purpose of the invention. Applicant is respectfully requested to either point out where the subject matter is enabled by the disclosure, or cancel the subject matter from the claim(s).

10. As dependent claims, claims 3-8 and 10-11 suffer from the same deficiencies as claims 1 and 2.

11. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

12. **Claims 1-8 and 10-13** rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear to the Examiner how to interpret the limitation recited in claims 1, 2, 12 and 13 of “automatically calculating a minimum bandwidth...for delivering the content.” Specifically, it is not clear from the claims or the specification how the minimum bandwidth is calculated (e.g. based on a quality of service parameter? based on a designated transport method? based on the type of content?), and such would not be apparent to one of ordinary skill in the art. Notably, this limitation is also in contradiction with the summary of the invention, which states in the first paragraph that the bandwidth is *designated* by the content provider and *not* calculated. Indeed, this is the purported purpose of the invention. For the purpose of applying prior art, the Examiner interprets that any teaching of either calculating or designating the minimum bandwidth is sufficient to meet the limitation of the claims.

Moreover, it is unclear whether or not the transmission time is being claimed as a “minimum” transmission time. Based on the specification, which makes no reference to a minimum transmission time, the Examiner interprets that the “minimum” adjective applies only to the bandwidth. In order to clarify this point, the Examiner suggests amending the claims slightly to recite “calculating a minimum bandwidth and a transmission time.”

***Claim Rejections - 35 USC § 103***

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. **Claims 1-7 and 10-13** are rejected under 35 U.S.C. 102(e) as being obvious over Kusaba et al. (US 6,510,556 B1) (hereinafter Kusaba) in view of Weber et al. (US 6,330,225 B1) (hereinafter Weber).

15. As for claims 1 and 12, Kusaba discloses a managing apparatus for managing data necessary for delivering a content, comprising:

reserving means for reserving a delivery resource for each content (scheduler 105, Figs. 2 & 7; col. 3, lines 10-27);

automatic assigning means for automatically calculating a transmission time necessary for delivering the content and for assigning the transmission time as an initial value of the reserved delivery resource (col. 4, lines 23-32; col. 5, lines 23-30; Figs. 4C-F);

storing means for storing the calculated transmission time as the initial value of the reserved delivery resource (schedule table 104, Figs. 2 & 7; col. 3, lines 10-27); and

transmitting means for transmitting the initial value of the reserved delivery resource (satellite transmitting apparatus 112, Fig. 2; CATV transmitting apparatus 118, Fig. 7; col. 3, lines 38-47; col. 5, lines 23-30).

Although Kusaba discloses various transmitting means which would inherently transmit other different bands, Kusaba does not specifically disclose automatically calculating a minimum bandwidth. Weber teaches automatically calculating a minimum bandwidth for a system having various transmitting means with different bands (Figs. 2a and 2b; col. 3, line 55 – col. 4, line 11; col. 7, lines 16-22). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Kusaba by automatically calculating a minimum bandwidth for the delivering the content in order to provide predictable and differential quality of service guarantees for different data flows while at the same time minimizing the size and cost of the system, as taught by Weber (col. 2, lines 9-25).

16. As for claims 2 and 13, Kusaba discloses a managing apparatus for managing data necessary for providing a content, comprising:

content list displaying means for displaying a list of contents that can be delivered (personal computer 123, Figs. 2 & 7; Fig. 4B; col. 3, lines 48-65; col. 4, lines 7-56);

reservation state displaying means for displaying a reservation state of a delivery resource (personal computer 123, Figs. 2 & 7; Fig. 4C; col. 3, lines 48-65; col. 4, lines 7-56);

content selecting means for selecting a content from said displayed list of contents (personal computer 123, Figs. 2 & 7; col. 3, lines 48-65; col. 4, lines 7-56); and

operating means for assigning a delivery resource for delivering the selected content (scheduler 105, Figs. 2 & 7; col. 5, lines 23-47); and

automatic assignment means for automatically calculating a transmission time necessary for delivering the selected content and for assigning the calculated transmission time as an initial value of the assigned delivery resource (col. 4, lines 23-32; col. 5, lines 23-30; Figs. 4C-F).

Although Kusaba discloses various transmitting means which would inherently transmit other different bands, Kusaba does not specifically disclose automatically calculating a minimum bandwidth. Weber teaches automatically calculating a minimum bandwidth for a system having various transmitting means with different bands (Figs. 2a and 2b; col. 3, line 55 – col. 4, line 11; col. 7, lines 16-22). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Kusaba by automatically calculating a minimum bandwidth for the delivering the content in order to provide predictable and differential quality of service guarantees for different data flows while at the same time minimizing the size and cost of the system, as taught by Weber (col. 2, lines 9-25).

17. As for claim 3, Kusaba discloses managing apparatus as set forth in claim 1 or 2, further comprising:

transmitting means for transmitting the content using the assigned initial value of the delivery resource (CATV transmitting apparatus 118, Fig. 7; satellite transmitting apparatus 112, Fig. 2; col. 3, lines 38-47; col. 7, line 66 – col. 8, line 17).

18. As for claim 4, Kusaba discloses managing apparatus as set forth in claim 1 or 2, further comprising:



manual designating means for manually designating a delivery resource by a user (user interface, Figs. 4A-F).

19. As for claim 5, Kusaba discloses managing apparatus as set forth in claim 1 or 2, wherein a delivery resource is assigned corresponding to a convenience of a content provider (col. 4, line 57 – col. 5, line 22).

20. As for claim 6, Kusaba discloses managing apparatus as set forth in claim 1 or 2, further comprising:

converting means for converting the format of each content corresponding to a reserved delivery resource (col. 3, lines 38-47; col. 7, line 66 – col. 8, line 17).

21. As for claim 7, Kusaba discloses managing apparatus as set forth in claim 1 or 2, wherein a transmission resource is reserved for each content, the transmission resource being composed of a limited transmission band and transmission time, and wherein each content is transmitted corresponding to the reserved information (col. 4, line 57 – col. 5, line 22; Figs. 4C & 4D).

22. As for claim 10, Kusaba discloses managing apparatus as set forth in claim 1 or 2, wherein a reservation state can be browsed from one or more distributed environments (Figs. 2 & 7; col. 4, lines 7-56).

23. As for claim 11, Kusaba discloses managing apparatus as set forth in claim 1 or 2, wherein a delivery resource can be reserved from one or more distributed environments (col. 4, line 57 – col. 5, line 22; Figs. 4C & 4D).

24. **Claim 8** is rejected under 35 U.S.C. 103(a) as being unpatentable over Kusaba and Weber in view of King et al. (US 6,477,707 B1) (hereinafter King).

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As for claim 8, Kusaba discloses a plurality of transmission paths (satellite, cable and internet; col. 8, line 58 – col. 9, line 13). However, Kusaba does not specifically disclose selecting a plurality of transmission paths. King teaches selecting a plurality of transmission paths (col. 12, lines 10-15). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Kusaba by selecting a plurality of transmission paths in order to transmit a variety of media objects over a distributed network, as taught by Kusaba (col. 1, lines 45-50).

### ***Response to Arguments***

25. Applicant's arguments with respect to claims 1-8 and 10-13 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

26. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US 6,134,584, note teaches determining a minimum bandwidth.
27. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to


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37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


28. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron C. Perez-Daple whose telephone number is (571) 272-3974. The examiner can normally be reached on 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (571) 272-3964. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 7/8/05

Aaron Perez-Daple

  
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